

Kaibab Piute Roadside Business Sites

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT is made and entered into by and between the STATE OF ARIZONA, acting by and through the Arizona Department of Transportation, Highway Division, herein referred to as the STATE, and the KAIBAB PIUTE TRIBE, acting by and through its Tribal Council, hereinafter referred to as TRIBE.

WITNESSETH:

The STATE is authorized to enter into this agreement pursuant to A.R.S. Sections 28-108 and 28-1865. The TRIBE is authorized to enter into this agreement pursuant to the Constitution and Bylaws of the Kaibab Band of Paiute Indians. NOW, THEREFORE, it is hereby mutually agreed by and between the STATE and the TRIBE:

1. That the STATE shall be responsible for the following:

a. Along designated highways within the State system on the reservation construct an approach to an area adjacent to the right of way (as depicted in Exhibit A attached) in which roadside business may be conducted. No such sites and approaches will be allowed along interstate routes, and no business shall be conducted within the right of way.

b. These sites will be selected after consultation with the tribe ^{and} safety considerations will be paramount.

c. The expense of constructing these approaches will restrict the State's obligation to construct same, subject to the availability of funds.

d. The STATE will furnish "ROADSIDE BUSINESS AHEAD" signs in advance of all roadside business sites.

2. The TRIBE shall, except as otherwise expressly provided in this agreement, have jurisdiction and control over, and be responsible for the following:

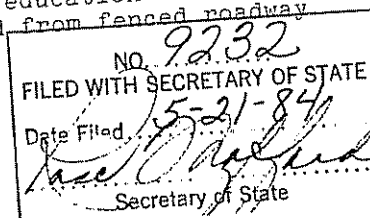
a. Upon completion of the approach to the site by the Arizona Department of Transportation, the TRIBE, acting through its Council and the Tribal Police, will require roadside businesses to operate only in the designated business area as depicted on Exhibit A, outside of the right of way.

b. Improvements to the site, sales booths, maintenance of the improvements, garbage disposal, etc., will be the responsibility of the TRIBE.

c. Upon occupancy of a roadside business site, all stands within the section of highway affected that are not in the roadside business site shall be removed.

d. The Tribal Police will not allow reestablishment or establishment of a stand or business not in a designated, improved site as shown on Exhibit A.

e. The TRIBE shall, through education and enforcement, insure that livestock are prohibited from fenced roadway sections.



f. The TRIBE will be responsible for installation and maintenance of fencing around the business area sites as shown on Exhibit A.

This Agreement shall remain in force and effect until terminated by either the STATE or the TRIBE upon thirty (30) days written notice of that intent, except, however, that the parties hereto shall retain any continuing obligations contemplated by this Agreement for already completed areas.

All work performed under the provisions of this Agreement shall be performed in a manner satisfactory to the Arizona Department of Transportation.

All parties are hereby put on notice that this agreement is subject to cancellation by the Governor pursuant to A.R.S. Section 38-511.

This Agreement shall be filed with the Secretary of State and shall become effective on the 21st day of MAY, 1984, but in no event prior to its being filed with the Secretary of State.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

STATE OF ARIZONA
Arizona Department of Transportation

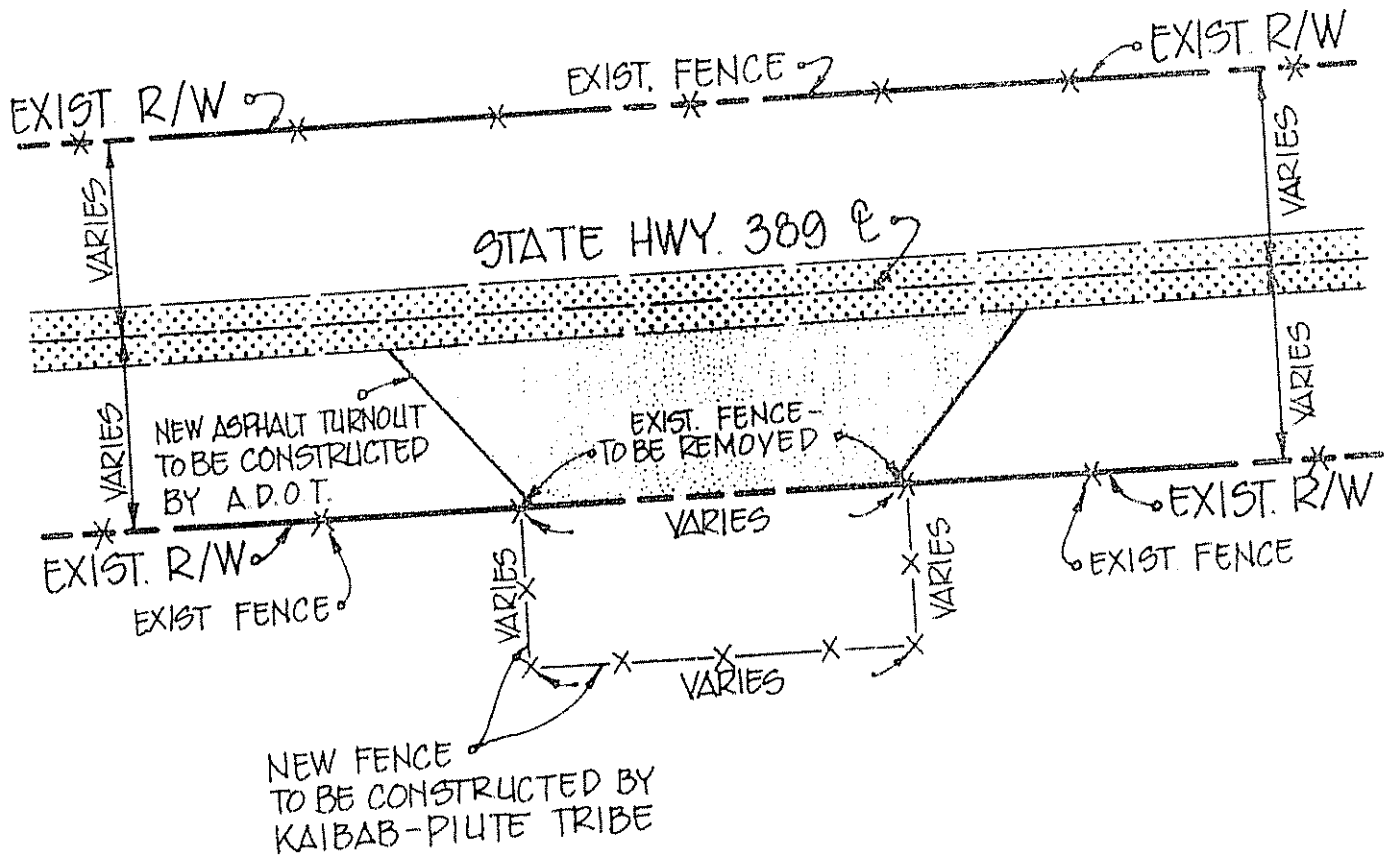
By: [Signature]
Title: ACTING STATE ENGINEER

KAIBAB PIUTE TRIBE

By: [Signature]
Title: Tribal Chairperson

ATTEST

[Signature]
For the Kaibab Piute Tribe



ROADSIDE BUSINESS AREA
 A.D.O.T. / KAIBAB-PIUTE TRIBE
 ~ TYPICAL LAYOUT ~
 (NOT FOR INTERSTATE HIGHWAY USE)
 EXHIBIT "A"

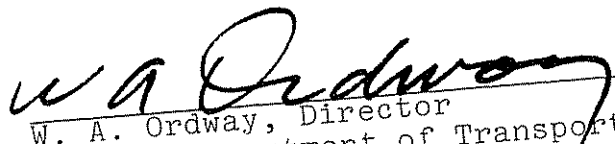
Kaibab Piute Roadside Business Sites

Section: Designated Highways
Within the Reservation

RESOLUTION

BE IT RESOLVED on this 22nd day of April, 1983,
that I, W. A. Ordway, as Director, ARIZONA DEPARTMENT OF
TRANSPORTATION, have determined that it is in the best interests
of the State of Arizona that the DEPARTMENT OF TRANSPORTATION,
acting by and through the Highways Division, enter into an
Intergovernmental Agreement with the Kaibab Piute Tribe for
construction, along designated highways within the State system
on the reservation, of an approach to an area adjacent to the
right of way in which roadside business may be conducted.
(See Exhibit A attached).

Therefore, authorization is hereby given to draft said Agreement
which, upon completion, shall be submitted for approval and
execution by the Chief Deputy State Engineer.


W. A. Ordway, Director
Arizona Department of Transportation

JDC:ea

RESOLUTION OF THE
KAIBAB BAND OF PAIUTE INDIANS

K-3-84

WHEREAS, The Kaibab Band of Paiute Indians are a federally recognized Tribe established by Executive Order of October 16, 1907 and are guaranteed the right to exercise certain rights in accordance with the Indian reorganization Act of 1934; and

WHEREAS, the Kaibab-Paiute Tribal Council has met with representatives of the Arizona Department of Transportation (ADOT) for the purpose of constructing and establishing a Roadside Business along Highway 389 on the Kaibab-Paiute Reservation; and

WHEREAS, a Memorandum of Agreement has been drawn up and reviewed by the Kaibab-Paiute Tribal Council and the tribe's legal counsel and find everything to be in final form; and

NOW THEREFORE BE IT RESOLVED, That the Kaibab-Paiute Tribal Council hereby approves this Memorandum of Agreement between the Kaibab-Paiute Tribe and the State of Arizona for the purpose of constructing and establishing a Roadside Business on the Kaibab-Paiute Reservation along Highway 389; and

BE IT FURTHER RESOLVED, that this Roadside Business be for the purpose of a Rest Area and a Place of Business for the Kaibab-Paiute Tribal Member; and


BE IT FURTHER RESOLVED, that the Kaibab-Paiute Tribal Council hereby authorizes the Chairperson or Vice-Chairman to enter into this Memorandum of Agreement with the State of Arizona and any amendments thereto; and

BE IT FURTHER RESOLVED, that any major amendments and negotiation to this Agreement on behalf of the Kaibab-Paiute Tribe should first be approved by the full Tribal Council; and

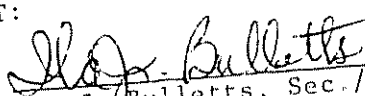
BE IT FINALLY RESOLVED, that this Memorandum of Agreement become effective upon signatures of all authorized authorities.

C E R T I F I C A T I O N

I hereby certify that the foregoing resolution was regularly adopted by the Kaibab-Paiute Tribal Council on the 24th day of April 1984, at a regular council meeting at which a quorum was present with a vote of 3 in favor, 0 against, 1 absent, 1 vacancy. This is pursuant to authority vested in the Kaibab-Paiute Tribal Council by Section 1 (k) of Article V of the Tribal Constitution and Bylaws, ratified by the tribe on May 15, 1951, and approved by the Secretary of the Interior on June 15, 1951, pursuant to Section 16 of the Act of June 18, 1934.


Gloria L. Bulletts, Chairperson
Kaibab-Paiute Tribal Council

ATTEST:


Ila J. Bulletts, Sec./Treas
Kaibab-Paiute Tribal Council



OFFICE OF THE
Attorney General

TRANSPORTATION DIVISION
1275 WEST WASHINGTON
PHOENIX, ARIZONA 85007
(602) 255-1680

ROBERT K. CORBIN
ATTORNEY GENERAL

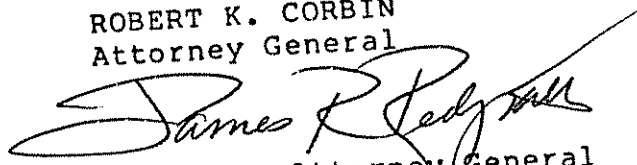
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. 84-246, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. Sec. 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 17th day of May, 1984.

ROBERT K. CORBIN
Attorney General


Assistant Attorney General
Transportation Division

ARIZONA DEPARTMENT OF TRANSPORTATION

OFFICE MEMO

May 11, 1984

RECEIVED

MAY 15 1984

CONDEMNATION

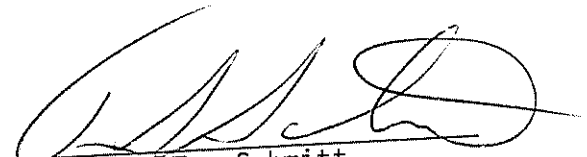
TO: JIM COX
Legal Analyst
Right of Way Section

FROM: TOM SCHMITT
Area Engineer
District IV, Area II

RE: KAIBAB-PAIUTE TRIBE RESOLUTION - BEADSTANDS

Enclosed per your request is the resolution signed by the Kaibab-Paiute tribe in conjunction with the beadstand agreement submitted earlier.

Please let me know if additional information is required prior to executing the agreement. Thank you for your assistance.



Tom Schmitt

TS/pd

Enc.

cc: Ed Gentsch

RECEIVED
MAY 15 1984
RIGHT OF WAY SECTION
A.D.O.T.

ARIZONA DEPARTMENT OF TRANSPORTATION

OFFICE MEMO

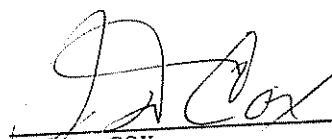
HIGHWAYS DIVISION
RIGHT OF WAY SECTION
May 24, 1984

TO: E. F. GENTSCH
District IV Engineer

FROM: J. D. COX
Right of Way Legal Analyst
Condemnation Services

RE: Kaibab Piute Roadside Business Sites

As you requested, I am enclosing two fully conformed copies of the agreement between the State and the Indians allowing them to construct roadside business sites on certain reservation highways.


J. D. COX

JDC:jmg
Enclosures

ARIZONA DEPARTMENT OF TRANSPORTATION
OFFICE MEMO

March 29, 1984

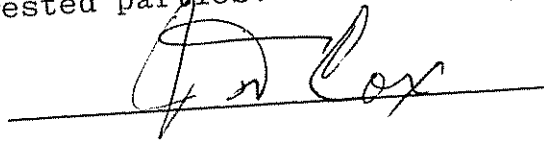
TO: W. O. FORD
CHIEF DEPUTY STATE ENGINEER

FROM: J. D. COX, LEGAL BRANCH
R/W CONDEMNATION SERVICE

RE: INTERGOVERNMENTAL AGREEMENT
BETWEEN ADOT AND THE PIUTE
INDIAN TRIBE

Attached is an intergovernmental agreement between ADOT and the Kiabab Piute Tribe to establish roadside business sites along designated highways on the reservation.

If you will execute the agreement and return it to me, I will see that the remaining approvals are obtained and copies distributed to interested parties.



JDC:ca

Enc.

RECEIVED
MAR 30 1984

Chief Deputy State Engin

April 25, 1983

TO: E. F. GENTSCH
District Engineer - 400D

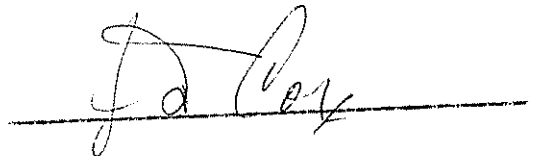
FROM: J. D. COX, Legal Branch
Right of Way/Condemnation Services

RE: Kaibab Piute Roadside Business Sites
Intergovernmental Agreement

Enclosed are the original and two copies of the proposed Intergovernmental Agreement between ADOT and the Kaibab Piute Tribe with reference to their business sites.

Please forward the original and one of the copies to the Tribe and instruct them to fill in on the face of the agreement their authority for entering into the agreement. Also, tell them to attach a resolution by the Tribal Council authorizing their entry into the agreement and naming the person authorized to sign for the tribe. In addition, a written determination by their attorney that the tribe is authorized to enter into the agreement and that the agreement is in proper form should be attached. When they have signed the original they should return it to you. We will then be in a position to finalize the transaction.

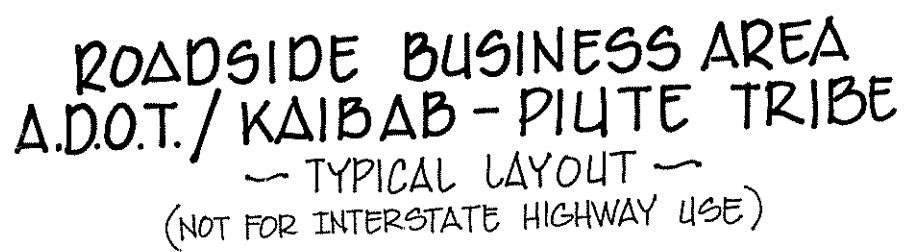
One copy of the agreement is for your reference until the entire agreement is finalized, at which time I will send conformed copies of the signed agreement to you for forwarding to the tribe.

A handwritten signature, likely of J. D. Cox, is written over a horizontal line.

JDC:ea

Attachments (3)

R/W FILES ONLY



(NOT FOR INTERSTATE HIGHWAY USE)

JOHN S. BOYDEN, JR.
JOHN PAUL KENNEDY
STEPHEN G. BOYDEN
GEORGE J. ROMNEY
J. WENDELL BAYLES
SCOTT C. PUGSLEY
MARK H. ANDERSON
G. RICHARD HILL
RICHARD M. HYMAS
RICHARD W. EVANS
CLARK B. FETZER
KAREN S. THOMPSON
JOHN N. BREMS

OF COUNSEL
F. BURTON HOWARD
STUART McMASTER

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JOHN S. BOYDEN
(1906-1980)

COALVILLE OFFICE
MAIN & CENTER STREETS
COALVILLE, UTAH 84017
(801) 336-2020

June 27, 1983

Mr. Fred C. Drye
Vice-Chairman
Kaibab-Paiute Tribal Council
Kaibab-Paiute Tribe
Fredonia, Arizona 86022

Re: Intergovernmental Agreement with the State of Arizona

Dear Fred:

I have reviewed the proposed Intergovernmental Agreement with the State of Arizona regarding the Kaibab-Paiute roadside business sites. I have read the Agreement and find it to be in order. I suggest that Paragraph 1b. be changed to read as follows:

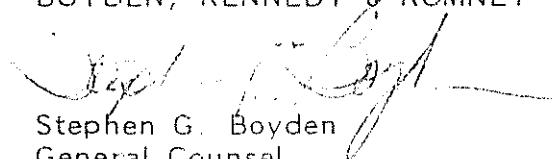
b. These sites will be selected after consultation with the Tribe, safety considerations will be paramount.

The word Tribe is used rather than the words local Chapters. The responsibilities of the Tribe and the state are well defined and need no further correction.

The Tribe is authorized pursuant to the Constitution and By-laws of the Kaibab Band of the Paiute Indians of the Kaibab Reservation, Arizona adopted by the Tribe on May 15, 1951, and approved by the Bureau of Indian Affairs on June 11, 1951, to enter into this Agreement with the State of Arizona. Referring to Article 5, Powers of the Tribal Council, Section 1, Enumerated Powers, the Tribe is specifically authorized to enter into the Agreement by virtue of subsections (a) to negotiate with federal, state and local governments, (i) to manage all economic affairs and enterprises, and (j) to protect the public health morals and welfare. If you have any further questions regarding this agreement, please contact me.

Sincerely,

BOYDEN, KENNEDY & ROMNEY


Stephen G. Boyden
General Counsel
Kaibab-Paiute Indian Tribe

SCB/cm